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DEPARTMENT OF AGRICULTURE

[WFO 149]

PART 1401—DAIRY PRODUCTS

CREAM

The fulfillment of requirements for the defense of the United States will result in a shortage in the supply of cream for defense, for private account, and for export; and the following order is deemed necessary and appropriate in the public interest and to promote the national defense:

§ 1401.211 *Restrictions with respect to cream*—(a) *Definitions*. (1) "Person" means any individual, partnership, association, business trust, corporation, or any organized group of persons, whether incorporated or not.

(2) "Handler" means any person who is engaged in the business of transporting or processing milk or cream, or of manufacturing any dairy product. Such term shall not include persons, such as peddlers, vendors, or retail stores, who merely deliver milk or cream to consumers, institutional or otherwise.

(3) "Milk" means cow's milk.

(4) "Cream" means the class of food which is the fatty liquid or semi-liquid separated from milk, with or without the addition thereto and the mixing therewith of milk or skim milk, irrespective of whether it is pasteurized or homogenized, and which contains not less than 18 percent of milk fat. In addition, such term shall, for the purposes of this order, include, but not be restricted to (i) light cream, coffee cream, table cream, whipping cream, whipped cream, heavy cream plastic cream, sour cream, aerated cream, frozen cream, and any other cream by whatever name known; (ii) reconstituted cream made from two or more of the following ingredients: butter, milk, skim milk, evaporated milk, condensed milk, cream, dried whole milk, dried skim milk, dried cream, and water; and (iii) whey cream.

(5) "Cream product" means cream to which there has been added, or which has been blended or compounded with, a culture, stabilizer, or like agent or ingredient; or with sugar, salt, condiments, spices, flavoring, or similar ingredients; whether or not the resultant product is pasteurized, homogenized, or sterilized.

(6) "Filled cream" means any milk, cream, or skim milk, whether or not condensed, evaporated, concentrated, powdered, dried, or desiccated, to which there has been added, or with which there has been blended or compounded, any fat or oil other than milk fat, so that the resulting product is an imitation of cream or in semblance thereof, whether or not such resulting product contains any other ingredient.

(7) "Milk fat," sometimes known as "butterfat," means the fat of milk; the proportionate content of such milk fat in milk or cream to be determined by the method prescribed in "Official and Tentative Methods of Analysis of the Association of Official Agricultural Chemists," Fifth Edition, 1940, page 287, under "Fat, Babcock Method—Official."

(8) "Frozen dairy foods" means any frozen or partially frozen food products (including ice cream, French ice cream, ice milks, milk ices, frozen custards, sherbets, and other similar preparations) containing milk fat and sugar, together with stabilizers, extracts, fruits, nuts, coloring or flavoring materials.

(9) "Administrator" means the Administrator, Production and Marketing Administration, United States Department of Agriculture, or any officer or employee of the Department to whom the Administrator has heretofore lawfully delegated, or to whom he may hereafter lawfully delegate, authority to act in his stead.

(10) "State" means any of the forty-eight States of the United States, or the District of Columbia.

(b) *Restrictions on cream and cream products*. (1) No person shall sell or deliver, except to a handler, any cream, cream product, or filled cream, having a milk fat content in excess of 19 percent: *Provided*, That any person may sell or deliver cream having a milk fat content not exceeding by more than 1 percent the minimum milk fat content required by State law or administrative regulation in effect at the time of such sale or delivery in the State where such delivery is made.

(2) No person shall sell or deliver, except to a handler, any cream or cream product which has been fortified, with, or to which there has been added, or with which there has been blended or compounded, evaporated milk, condensed milk, dried whole milk, or dried skim milk.

(3) No handler shall use any cream or cream product having a milk fat content in excess of 19 percent, except in the processing of milk or cream, in the manufacture of a dairy product, or in the production of filled cream: *Provided*, That any handler may use for all purposes cream having a milk fat content not exceeding by more than 1 percent the minimum milk fat content required by State law or administrative regulation in effect at the time of such use in the State where such use takes place.

(4) Notwithstanding the provisions of (b) (1) and (b) (2) hereof, any person may sell or deliver to any restaurant, hotel, bakery, or similar establishment any cream or cream product having a milk fat content in excess of that permitted by (b) (1) hereof or any cream or cream product of the type described in (b) (2) hereof, if the purchaser certifies in writing to the seller that such cream or cream product is to be used in the manufacture of frozen dairy foods.

(5) No restaurant, hotel, bakery, or similar establishment shall use any cream or cream product having a milk fat content in excess of 19 percent, except in the manufacture of frozen dairy foods: *Provided*, That any such restaurant, hotel, bakery, or similar establishment may use for all purposes cream having a milk fat content not exceeding by more than 1 percent the minimum milk fat content required by State law

or administrative regulation in effect at the time of such use in the State where such use takes place.

(c) *Exemptions*. (1) Notwithstanding the provisions of (b) hereof, any person may sell or deliver to or for any patient, or to any establishment engaged in the care and treatment of the sick, cream of such milk fat content, and in such quantities, as may be necessary for supervised medical treatment of such patient or the patients of such establishment: *Provided*, That such person is supplied with a written statement from the patient's physician or, in the case of an establishment engaged in the care and treatment of the sick, from a responsible official thereof who is a practicing physician, and such written statement shall be valid for a period of not to exceed sixty days from the date of issuance and shall specify (i) the milk fat content of cream required for such use, (ii) the daily quantity of such cream, and (iii) with regard to the necessity of such cream for supervised medical treatment: *Provided further*, That such written statement shall not be valid for obtaining such cream unless approved by a public health officer who is a physician, or by the secretary of the county medical society of the county wherein such patient resides or such establishment is located.

(2) Upon application by one or more persons in any area or region and after demonstration to the satisfaction of the Administrator that compliance with the provisions of (b) (1) hereof will not tend to conserve milk fat for defense and essential civilian needs, or upon the initiative of the Administrator, the Administrator may grant an exemption from the provisions of (b) (1) hereof to any or all persons in such area or region, or to any or all persons in any area or region specified by the Administrator.

(d) *Audits and inspections*. The Administrator shall be entitled to make such audits or inspections of the books, records and other writings, premises, or stocks of cream, cream products, or filled cream of any person, and to make such investigations as may be necessary or appropriate, in the Administrator's discretion, to the enforcement or administration of the provisions of this order.

(e) *Records and reports*. (1) The Administrator shall be entitled to obtain such additional information from, and to require such reports and the keeping of such records by, any person, as may be necessary or appropriate, in the Administrator's discretion, to the enforcement or administration of the provisions of this order, subject to the approval of the Bureau of the Budget in accordance with the Federal Reports Act of 1942.

(2) Every person subject to this order shall, for at least two years (or for such period of time as the Administrator may designate), maintain an accurate record of his transactions in cream and cream products, and filled cream.

(f) *Petition for relief from hardship*. Any person affected by this order who considers that compliance herewith would work an exceptional or unreason-

able hardship on him may file a petition for relief with the Order Administrator. Such petition shall be addressed to the Order Administrator, War Food Order No. 149, Dairy Branch, Production and Marketing Administration, United States Department of Agriculture, Washington 25, D. C. Petitions for such relief shall be in writing and shall set forth all pertinent facts and the nature of the relief sought. The Order Administrator may take any action with reference to such petition which is consistent with the authority delegated to him by the Administrator. If the petitioner is dissatisfied with the action taken by the Order Administrator on the petition, he shall obtain, by requesting the Order Administrator therefor, a review of such action by the Administrator. The Administrator may, after said review, take such action as he deems appropriate, and such action shall be final. The provisions of this paragraph (f) shall not be construed to deprive the Administrator of authority to consider originally any petition for relief from hardship submitted in accordance herewith. The Administrator may consider any such petition and take such action with reference

thereto that he deems appropriate, and such action shall be final.

(g) *Violations.* Any person who violates any provision of this order may, in accordance with the applicable procedure, be prohibited from receiving, making any deliveries of, or using cream or cream products. In addition, any person who wilfully violates any provision of this order is guilty of a crime and may be prosecuted under any and all applicable laws. Further, civil action may be instituted to enforce any liability or duty created by, or to enjoin any violation of, any provision of this order.

(h) *Delegation of authority.* The administration of this section and the powers vested in the Secretary of Agriculture of the United States, insofar as such powers relate to the administration of this order, are hereby delegated to the Administrator; and the Administrator is hereby authorized to redelegate to any employee or employees of the United States Department of Agriculture any or all of the authority vested in the Administrator by this order.

(i) *Communications.* All reports required to be filed hereunder, and all

communications concerning this order, shall, unless otherwise provided herein or in instructions issued by the Administrator, be addressed to the Order Administrator, War Food Order No. 149, Dairy Branch, Production and Marketing Administration, United States Department of Agriculture, Washington 25, D. C.

(j) *Territorial extent.* This section shall apply to the forty-eight States of the United States and the District of Columbia.

(k) *Effective date.* This order shall become effective at 12:01 a. m., e. s. t., July 1, 1946.

NOTE: All reporting and record-keeping requirements of this order have been approved by, and subsequent reporting and record-keeping requirements will be subject to the approval of, Bureau of the Budget in accordance with the Federal Reports Act of 1942.

(E.O. 9280, 7 F.R. 10179; E.O. 9577, 10 F.R. 8087)

Issued this 26th day of June 1946.

N. E. DODD,
Acting Secretary of Agriculture.

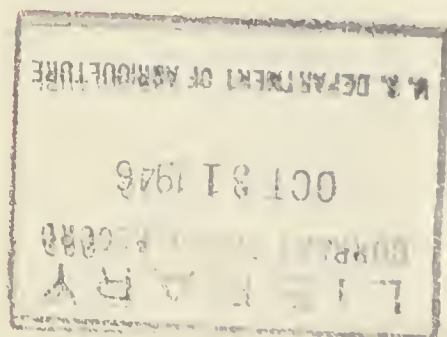
United States Department of Agriculture Summary to WFO-149

An order to be made effective July 1, reinstituting the wartime ban on the delivery to consumers of whipping cream and other cream products was today announced by the Department of Agriculture.

The prohibition on the sale or delivery of cream, cream products, or filled cream with a butterfat content in excess of 19 percent has been issued in accordance with Directive 114 of the Office of Economic Stabilization. The purpose of the order is to make the butterfat now

going into whipping cream available for other uses. It is anticipated that a larger production of butter will result.

The order is, except for elimination of the quotas on filled cream with a butterfat content of less than 19 percent, is similar to War Food Order No. 13.



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Revised

WFO 149

TERMINATION
NOV. 19, 1946

DEPARTMENT OF AGRICULTURE

[WFO 149, Termination]

+ PART 1401—DAIRY PRODUCTS

CREAM

The provisions of War Food Order No. 149 (11 F. R. 7182) are hereby terminated as of 12:01 a. m., e. s. t., November 20, 1946.

With respect to violations, rights accrued, liabilities incurred, or appeals

taken under the said War Food Order No. 149 prior to the effective time of this termination order, all provisions of the said War Food Order No. 149 in effect prior to the effective time of this termination order shall be deemed to continue in full force and effect for the purpose of sustaining any proper suit, action, or other proceeding with regard

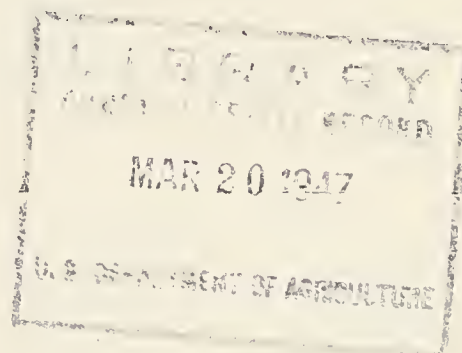
to any such violation, right, liability, or appeal.

(E. O. 9280, Dec. 5, 1942; E. O. 9577, June 29, 1945; 7 F. R. 10179, 10 F. R. 8087)

Issued this 19th day of November 1946.

[SEAL]

CLINTON P. ANDERSON,
Secretary of Agriculture.



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TERMINATIONS

OCT. 24, 1946

DEPARTMENT OF AGRICULTURE

[War Food Orders, Termination]

TERMINATION OF CERTAIN WAR FOOD ORDERS

The following War Food Orders and all War Food Orders issued thereunder or pursuant thereto are hereby terminated:

War Food Order No. 1 (10 F. R. 5347; 11 F. R. 5779, 9732), War Food Order No. 4 (8 F. R. 11331; 9 F. R. 4319, 4321, 9584; 10 F. R. 103, 126, 10419; 11 F. R. 5105), War Food Order No. 19 (9 F. R. 2456, 4319, 4321, 9584, 14876; 10 F. R. 103, 126, 3430, 10419, 14686; 11 F. R. 1768, 5105), War Food Order No. 22 (8 F. R. 2243, 6397; 9 F. R. 4321, 4319, 9584; 10 F. R. 103, 126, 10419, 11379; 11 F. R. 5105), War Food Order No. 25 (8 F. R. 2529; 9 F. R. 4319, 4321, 9584, 13741; 10

F. R. 103, 126, 10419, 10762; 11 F. R. 5105), War Food Order No. 47 (8 F. R. 14510; 9 F. R. 4319, 4321, 9584; 10 F. R. 103, 126, 10419; 11 F. R. 5105), War Food Order No. 52 (8 F. R. 1777, 3280; 9 F. R. 4319), War Food Order No. 54 (8 F. R. 7210; 9 F. R. 2875, 4319, 4321, 9584; 10 F. R. 103, 126, 10419, 11847; 11 F. R. 4781, 5105, 5438, 6271), War Food Order No. 58 (8 F. R. 2521; 9 F. R. 4319), War Food Order No. 59 (8 F. R. 3471; 9 F. R. 4319), War Food Order No. 61 (8 F. R. 3471; 9 F. R. 4319), War Food Order No. 72 (11 F. R. 8435), War Food Order No. 84 (8 F. R. 13878; 9 F. R. 4319), War Food Order No. 111 (9 F. R. 10761), War Food Order 123 (10 F. R. 1125, 4194, 5059; 11 F. R. 9612), War Food Order No. 148 (11 F. R. 5995).

This order shall become effective at 12:01 a. m., e. s. t., October 25, 1946. With respect to violations, rights accrued, liabilities incurred, or appeals taken, prior to said date under any of the above listed War Food Orders, all provisions of said orders shall be deemed to remain in full force for the purpose of sustaining any proper suit, action, or other proceeding, with respect to any such violation, right, liability, or appeal.

(E. O. 9280, December 5, 1942, 7 F. R. 10179; E. O. 9577, June 29, 1945, 10 F. R. 8087; sec. 2 (a), 54 Stat. 676, as amended, 50 U. S. C. War App. Sup. 1152 (a))

Issued this 24th day of October 1946.

[SEAL]

N. E. DODD,

Acting Secretary of Agriculture.

